



CITY COUNCIL and COMMUNITY DEVELOPMENT AGENCY MINUTES

Tuesday, April 19, 2005
7:00 p.m.
701 Laurel Street, Menlo Park, CA 94025
Menlo Park City Council Chambers

7:00 p.m. REGULAR MEETING (Menlo Park City Council Chambers)

ROLL CALL – Winkler, Jellins, Cohen, Duboc, Fergusson

STAFF PRESENT - David Boesch, City Manager; William McClure, City Attorney; Audrey Seymour, Assistant City Manager; and Silvia M. Vonderlinden, City Clerk. Various department heads and other City staff were also present.

PLEDGE OF ALLEGIANCE

A. COMMISSION VACANCIES AND REPORTS

1. Four vacancies on the Bicycle Commission to fill four expired terms. The vacancies are for terms that will end in April 2009. The deadline for receipt of applications is April 20, 2005 at 5:30 p.m.
2. Swearing in of new Environmental Quality Commission member, Sarah Granger.
City Clerk Vonderlinden performed the swearing in of the new Commissioner.
3. Council direction on appointments to the 2006-07 Ad Hoc Budget Advisory Committee.

Council discussed the applications received, and Mayor Winkler suggested appointing all those who applied by the deadline. Other Council Members also supported this approach. Council Member Fergusson would prefer holding interviews and following the original plan of appointing 12 members. The qualifications of certain applicants were discussed, and Council Member Fergusson shared concerns about some applicants.

**M/S Winkler/Cohen to appoint the 15 applicants to the Budget Advisory Committee.
Motion passes 4-1 with Council Member Fergusson opposing.**

4. Commission Reports.

B. PRESENTATIONS AND PROCLAMATIONS

1. Proclamation celebrating Arbor Day.

Rick Stevens, organizer of the Arbor Day event and Vice-Chair of the Environmental Quality Commission, received the proclamation and gave details about the event. Mayor Winkler thanked him and all those who participated.

2. Proclamation recognizing April as National Volunteer Month.

Mayor Winkler presented the proclamation to Fahir Etiz and Kristi Breish, thanking them for their commitment to volunteerism.

C. PUBLIC COMMENT #1 (Limited to 30 minutes)

Mayor Winkler and Council Member Fergusson offered to recuse themselves because of the proximity of their homes to the La Hacienda Market. City Attorney McClure explained they could

stay in the room because under public comment Council does not engage in a dialogue with the public.

Mark Costa explained that while he tries to patronize local businesses, one of the markets has been robbed five times. He wants the City to regulate check cashing businesses.

Diane Mavica stated that this is a safety issue and asked that this item be placed on a future Agenda. Ms. Mavica wants the Council to take action.

Marcia Beaver believes this is a serious problem and legal intervention is needed. Ms. Beaver stated that if check cashing is causing the problem then something must be done. She provided statistics on the robberies.

Alex Striffler-Hernandez said he just moved into the Willows area and he is concerned for the safety of his family. He would like the Council to take action on this matter.

Alaina Sloo pointed out that the most recent robbery was at 10:00 a.m. on a Saturday. She expressed fears about the lack of safety.

Subramaian Subbiah said that he is in a position to be hurt because of the location of his residence. Mr. Subbiah recalled going to the Planning Commission three years ago and mentioning that this might happen. He would like the City to act now.

Christine Franco shared that she lives in a route that seems to be a preferred robbery exit route. Ms. Franco shared her concerns about safety. She asks the City to work with storeowners to expedite a solution.

Rene Lajous believes that something needs to be done to ensure safety in the community. Mr. Lajous would like the business community to be included in the solution.

Carolyn Fairman will not frequent the area because of her concerns with safety. She implores the Council to take action and curtail the robberies.

Rebecca Alexander enjoys the La Hacienda market but she suggests that East Palo Alto and Menlo Park get together and resolve the problem. She respects that cash checking serves an important community need.

Hendrick vander Meer shared that in his opinion nothing has been done and he believes the police needs to get involved. He thinks cameras would help, and the number of robberies is worrisome.

Chris DeCardy believes this is a great opportunity for the Council to come together and work on a solution. Mr. DeCardy advocates finding innovative ways to solve this challenge.

E. Gary Smith asks Council to do something because this is a serious danger. He said that as a business owner he knows people will not shop in Menlo Park when people are afraid.

Brenda Kinaan, with time donated by Ross Wilson, said she bought a home in this area because her family could walk to many sites. Ms. Kinaan said she is scared to walk and asks Council to act.

Dan Monahan opined that this problem extends to different areas of the neighborhood. He fears that a solution will escalate the situation, because enforcement usually leads to escalation.

David Lombardi said he might leave the area because he feels unsafe. Mr. Lombardi believes something needs to be done now.

Deborah Ferman shared that recently the alarm went off in that area and the police took 45 minutes to respond. Ms. Ferman hopes the Council will do something to prevent this dangerous situation.

Stu Soffer asked Council to consider if there is a nexus between the commercial zoning area and the crime area.

Mr. McClure explained that usually a zoning ordinance cannot be used to discontinue a certain use. He added that there are some exceptions to these rules such as a public nuisance. Mr. McClure outlined some of the options: 1) look at enforcement and apprehension 2) make this a less favorite

spot to rob and 3) initiate a zoning ordinance amendment that places restrictions as to use. His concern is how to determine if a zoning ordinance amendment goes against a constitutional rule. Mr. McClure stated that if Council would like to discuss this issue, it can schedule a Special Council Meeting.

Mayor Pro Tem Jellins asked if there is a legal basis for discontinuing use of a business like check cashing, and Mr. McClure said this is an issue that needs a factual basis. Chris Boyd, Chief of Police, provided comments on what actions the Police Department is taking. He reiterated this is a top priority for the Department, and he believes this is part of a series of robberies, nine robberies in Menlo Park, for a total of 34 in the Bay Area. He added that extra patrol is scheduled and the Willows neighborhood is one of the top priorities. Other Police Departments and Federal Agencies are collaborating in this matter and Mr. Boyd stated that La Hacienda has cooperated but not fully. The Chief is sending a letter asking various markets to comply with police suggestions, and he mentioned that there are markets that were robbed that are not connected with check cashing. Mayor Pro Tem Jellins would like staff to return with more information, and he will work with the City Manager to schedule this matter.

Council consensus (with Mayor Winkler and Council Member Fergusson recused) was to bring this matter back.

D. CONSENT CALENDAR

1. Award of contract to Precision Emprise, Inc., for the 2004-05 Sidewalk Trip Hazard Removal Program in the amount of \$90,000; and authorization of a budget of \$110,000 for construction, contingencies, engineering, construction administration and testing.

M/S Fergusson/Duboc to approve Consent Calendar item D1. Motion carries unanimously.

E. PUBLIC HEARING

1. Adoption of Resolution No. 5593 and No. 5593A amending the City's Master Fee Schedule to incorporate proposed changes in fees to become effective April 19, 2005 or July 1, 2005, as required by statute for the following departments: Administrative Services, Community Services, Police, Community Development and Public Works.

Carol Augustine, Finance Director, explained the process of arriving at the fees and this year's fees represent roughly a \$120,000 increase. Mayor Pro Tem Jellins asked for the logic behind each fee increase. Ms. Augustine explained that some of the fee increases are related to services that were new as of last year.

Curtis Brown, Director of Community Services and other staff, answered questions about the increases in fees. David Boesch, City Manager, said it had been agreed to bring the fee for child care up to par with other comparable programs, and the Community Services Department needs clarification on how much the City is willing to subsidize these programs. Mr. Brown added that the fee increase for Belle Haven is 5% to match the fee increase for the Burgess Center. Mayor Pro Tem Jellins asked for information regarding the increases listed in the report. Council Member Fergusson asked how comparable the child care programs are in comparison to other programs. Council discussed the dog park and a \$6,000 contribution made by residents. Mayor Pro Tem Jellins asked about concession fees at Burgess Park. Staff explained how this fee relates to seasonal changes, so that all groups have the same opportunity to raise money for their non-profit groups.

The fees for the Community Development Department were discussed and staff explained that changes are mostly on appeals. Still the fee does not allow full cost recovery. Mayor Pro Tem Jellins thinks it will allow the public to voice their opinions, but he is open to revisiting the issue of the heritage tree appeal fee. Arlinda Heineck, explained the details of the appeal fee. The site check fees were discussed as well as the \$15 fee for the appeal of staff's administrative actions on heritage trees.

Council Member Fergusson asked Public Works Director Kent Steffens to discuss recovering damages to city streets. Fees for excavation trucks were also explained, and Mr. Steffens stated that in June of this year staff is planning to bring back a study on construction impact fees. Council asked about a traffic

study, and staff clarified that there is a circulation system assessment document that gets updated every two years. The primary users of this study are private companies who have projects, and so cost recovery is suggested. Council Member Duboc would like to explore changing the downtown parking limit from two hours to three hours. City Manager Boesch explained that this is not on the Agenda, and this is not a small task for staff. He commented that it would require a study and no resources were allocated for this. Council Member Duboc would like to keep it on a place holder for the 2006 priority setting session.

Bruce Goitia, Police Commander, answered questions about the Police Department fees. He explained that this department received donations from the public allowing them to eliminate child car seat safety inspection and installation fees.

Audrey Seymour, Assistant City Manager, answered questions about Administrative Services Department fees, specifically about revenues from renting the Council Chambers. City Manager Boesch explained the various uses and when the fees are waived. He added that cost recovery is occurring.

Mayor Winkler opened the Public Hearing.

Public Comment

Richard Li addressed cost recovery, and he would like the master fee schedule to be handled with caution. Mr. Li shared his own experience with cost recovery and he was surprised with his final bill.

Michelle Harbottle would like homeowners to have more input on the Master Fee schedule. She thinks fees should be set and not keep changing annually.

M/S Winkler/Cohen to close the Public Hearing. Motion carries unanimously.

Motion by Mayor Pro Tem Jellins to accept the staff recommendation, excluding the Community Services fee increases. Council Member Duboc feels uncomfortable instituting the off-leash dog fees, when the dog owners donated \$6,000. Council asked about the flat fees related to the Planning Department and Ms. Heineck explained that the change in the fees allows staff to charge for its time. The appeal process was discussed and Ms. Heineck explained that appeals are a single and flat fee that does not cover staff time, with some exceptions when the appellant is a non-resident appealing a Planning Commission decision. Council Member Fergusson asked for clarification on the motion and she wanted to reiterate that it did not include increases for the Burgess school age programs, Belle Haven school age programs, Menlo Children's Center, Belle Haven Childcare, Gymnastics, Concession stand, and fee at the Onetta Harris Center. Mr. McClure clarified that he thought the motion included the new fees for the off-leash dog area, the Burgess Park concession stand, and the Onetta Harris Community Center. Mayor Pro Tem Jellins clarified that he accepted a friendly amendment by Ms. Duboc to exclude the off-leash dog fees. Certain Council Members requested more information on the concession stand fee.

City Manager Boesch asked for clarification on the motion and who seconded the motion.

Council Member Cohen posed questions regarding non-refundable deposits. Mayor Winkler asked for a friendly amendment regarding fees for tentative parcel maps. Council opted to make a single motion for each department.

M/S Duboc/Winkler to approve the staff recommendations for the Administrative Services Department fees. Motion carries unanimously.

M/S Jellins/Winkler to accept the staff recommendations for the Police Department with respect to the elimination of the child car seat inspection/installation fees. Motion passes unanimously.

M/S Fergusson/Winkler to approve the staff recommendations for the Public Works Department fees. Motion carries unanimously.

M/S Jellins/Duboc to adopt the staff recommendations for the Community Development fee schedule. Motion carries unanimously.

M/S Cohen/Fergusson to accept staff recommendations for the Community Services fees.

Mayor Pro Tem Jellins does not have sufficient background information to support the increases, with the exception of the Burgess concession stand. Council Member Cohen is ready to accept the staff report,

however Ms. Duboc would like more information on various fees. Mayor Winkler suggested a friendly amendment to accept all the fees but have the Community Services explain the rationale behind certain fees. The maker of the motion cannot accept postponing the action.

Motion fails 2-3 with Winkler, Jellins and Duboc voting against it.

The opposing Council Members stated they lacked pertinent information to make a decision.

M/S Duboc/Jellins to:

- **have staff return with more information on comparable quality and accreditation of the City's childcare programs;**
- **approve the gymnastic increases;**
- **exclude the off leash dog user fees;**
- **accept the Onetta Harris Community Center classroom deposit;**
- **accept the Burgess Park concession stand fees.**

Council Member Fergusson stated that the only item that was singled out was the children's program and she believes this is noteworthy. Mayor Winkler added that the off leash dog user fees were also excluded.

Motion passes 3-2 with Cohen and Fergusson opposing.

At 9:40 p.m. the Council took a five-minute recess.

2. Consideration of an appeal of a Planning Commission action to deny a Variance to increase the lot coverage to 39.2 percent, which exceeds the maximum requirement of 35 percent in the R-1-U (Single Family Urban Residential) zoning district, for property located at 1341 University Drive.

Deanna Chow, Associate Planner, presented the staff report explaining details on the appeal and noting a language change to condition K, which now includes that "the deed restriction shall be subject to review and approval by the City Attorney". Council Member Fergusson asked about the possibility of accessory structures being used as secondary dwelling units. Staff explained that the applicant did not include a request to have an accessory structure be used as a secondary dwelling unit. Ms. Chow said that the zoning ordinance does not prohibit bathrooms in accessory structures but if this became an issue Code Enforcement would get involved. Staff offered that as an added assurance the City Council could add language restricting the possibility of a secondary dwelling unit.

Juliette Faraco, the applicant, addressed the Council asking for a lot coverage variance and in her opinion this will add parking and valuable space for her family. The applicant addressed current zoning regulations, and she enumerated why the variance is needed in this case. Steve Shoettler, the co-applicant, explained that this does not seem to be a controversial case and there is a willingness to improve the home and the looks of the community.

Public Comment

Roxanne Rorarapugh commented on the process, and she hopes the applicants get their variance.

M/S Cohen/Winkler to close the Public Hearing. Motion carries unanimously.

M/S Cohen/Jellins to grant two variances per staff's recommendation, include the revised form of findings, and conditions provided to Council as well as the brief deed description on paragraph K.

Council Member Cohen believes the deed restriction is unnecessary and in his opinion complicates the situation. Mayor Pro Tem Jellins explained that the deed restriction included in the motion is the lot coverage deed restriction (condition K). Council Member Fergusson will support the motion, even though in her opinion this is a valid issue for the Planning Commission to scrutinize.

Mayor Pro Tem Jellins clarified that the deed restriction is on the lot coverage (this is a condition to paragraph K). Motion carries unanimously.

F. REGULAR BUSINESS

1. Council direction on design alternatives for a Parking Structure on the Parking Plaza Three site in downtown Menlo Park.

Kent Steffens, Public Works Director, presented the staff report with Michelle Wembler from The Watry Design Group. He provided a brief overview and Ms. Wembler presented various alternatives for the project. Mr. Steffens covered the purpose of the project, and he explained that Council direction was to further develop parking plaza 3 to add downtown parking. Staff presented four options for Council to consider, and asked that this number be narrowed down. Mr. Steffens discussed costs, benefits and design issues associated with the various structures and possibilities. Next steps were also discussed as well as the need for a financing plan. Staff explained that the Council decided to pursue parking plaza number 3 because Council believed it was the best choice for renovation.

Various Council Members asked questions about the criteria used in selecting plaza 3. Council Member Cohen would like to bring this discussion back to the table. Mr. Steffens explained that plaza 1 and 3 had the most potential because they were the largest. Council Member Cohen wanted to know why plaza 3 was selected over plaza 1 and if proximity to public transportation was considered. Mr. Steffens explained that public transit needs were not included. Mr. Cohen asked if the businesses were consulted, and Mr. Steffens said that two public meetings were held, and all surrounding residents, businesses and the Chamber of Commerce were invited. Mr. Steffens added that the selection of plaza 3 was made at a public meeting. Mayor Winkler said that she picked plaza 3 because the site of plaza 1 should be left for public use, and Council Member Duboc added that plaza 3 has a high use.

Mayor Pro Tem Jellins believes that public and private partnerships are more feasible on plaza 3. Council Member Cohen stated that there is a legitimate need for parking on plaza 3, however he believes it is premature to commit now. Council asked about the potential for build out according to zoning and the extent of current use. Council Member Fergusson asked whether the City's money should be spent on a parking plaza and other questions related to zoning. In-lieu fees and the benefits to the nearby businesses were discussed. Council wanted to know about parking meters and staff to date has not studied this. Council discussed public and private partnerships and staff added that this is a policy decision.

David Boesch, City Manager, would like to get Council direction on the questions posed by staff.

Public Comment

Bill Frimel, representing the Church of Pioneers Foundation and Menlo Park Presbyterian Church, said the Foundation is interested in supporting a parking garage due to parking overflow from church services, especially on weekends.

Victor Lovell pointed out issues with parking and traffic in Menlo Park versus Palo Alto. He would like Council to reconsider which parking plaza should be redone, and fears the decision was not done in a public setting.

Mr. Steffens clarified that the decision to redo plaza 3 was made at a public meeting and there were multiple opportunities for public comment. Staff also explained the other public meetings that took place.

Roxanne Rorapaugh expressed her views on the separation of church and state, and she would like a different choice on the parking garage. Plaza 3 is at the opposite end of the Caltrans station, and she has concerns about the impact on the environment and people.

Dick Poe, a real estate broker, stated that the property value of plaza 3 is much higher than stated by staff. He thinks this plaza has a high value to the community. He supports a partnership between public and private sector.

Lou Deziel, speaking as an individual and with time donated by Matt Henry, supports the redevelopment of plaza 3, because it will be more convenient for employers and their employees. In his opinion A6 or B6 are the viable options. On the maximum height, Mr. Deziel agrees with going for the maximum height regardless of whether a basement is considered. He covered projections for parking needs.

Fran Dehn, representing the Menlo Park Chamber of Commerce, said this organization supports the City Council's efforts in creating more downtown parking that addresses demand, supports the character of the area, and attracts more businesses. She encourages the Council to evaluate public/private collaborations and net increases in the number of parking spaces should be clearly understood.

Mayor Winkler guided the discussion by having Council answer questions posed by staff.

Council discussion on the style of the parking structure included the following positions:

- Mayor Pro Tem Jellins agrees with including a commercial space;
- Council Member Duboc would like to go with option C to consider optimum parking spaces;
- Council Member Fergusson does not find the demand figures compelling enough to spend millions of dollars, she needs more information on demand so that the right conceptual decisions are being made; she would like to keep plaza 1 on the table; Council Member Fergusson likes option B predicated on inclusion of additional demand studies;
- Mayor Winkler would not like commercial space included, if commercial space is included than she would like options B2 or B6; Mayor Winkler would like option C;
- Council Member Cohen agrees with option C;

Mr. McClure tallied Council's direction as four in favor of option C, and one in favor of option B.

Council discussion on the height of the parking structure included the following positions:

- Council Member Duboc likes option A and B2;
- Mayor Winkler supports options B2 and B6;
- Mayor Pro Tem Jellins prefers B6, but if commercial is eliminated he chooses B2;
- Council Member Fergusson prefers B3 if the demand is there; she also supports B2 and B2+ but opposes the commercial option because there is already a lot of commercial;
- Mayor Winkler chooses B2, but if commercial is chosen, she supports B6;
- Council Member Cohen is opposed to the entire idea, but within current zoning he prefers B2 and opposes B6.

Council direction based on the discussion was:

- 1) to include the possibility of a basement**
- 2) the minimum of 320 net new stalls**
- 3) pursue option B2 and option B6.**

Council Member Fergusson reiterated that her preferences would be predicated on demand figures, and so she cannot state her choice now. Mayor Winkler believes that as the studies go forward there will be more answers about demand. Mayor Winkler believes there is a lot more outreach to do and a lot more to learn on this issue including the potential for partnerships. Council Member Fergusson supports the omission of the use of a public bond for funding this project.

G. WRITTEN COMMUNICATION - None

H. INFORMATION ITEMS - None

I. COUNCIL MEMBER REPORTS - None

J. PUBLIC COMMENT #2 (Limited to 30 minutes)

K. ADJOURNMENT – 12:03 a.m.

Respectfully submitted,

Silvia M. Vonderlinden, CMC

Approved at the City Council Meeting of August 16, 2005.